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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

In re LAURA M., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

LAURA M.,

Defendant and Appellant.

A152647

(Contra Costa County
Super. Ct. No. J15-00977)

Nineteen-year-old Laura M. appeals from the juvenile court’s September 1, 2017 order setting aside a previous placement order. She maintains the court abused its discretion because, shortly before her 18th birthday, it deprived her of any future possibility of receiving services as a nonminor dependent (Welf. & Inst. Code, §§ 11400, subd. (v), 11403, subd. (b)).¹ We affirm the challenged order.

BACKGROUND

A.

Before 2008, most dependent children became ineligible for foster care on their 18th birthday. In 2008, to improve outcomes for children who aged out of foster care, Congress passed the Fostering Connections to Success and Increasing Adoptions Act of 2008. (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949.) “Among other things, the

¹ Undesignated statutory references are to the Welfare and Institutions Code.

2008 act provided federal funding to reimburse states for part of the cost of providing maintenance payments to eligible youths who remained in foster care after their 18th birthdays, so long as those youths had not yet reached their 21st birthdays and were either enrolled in school, employed at least 80 hours a month, or participating in ‘an activity designed to promote or remove barriers to employment.’ ” (*In re A.A.* (2016) 243 Cal.App.4th 765, 772.)

To take advantage of the federal funding, California passed Assembly Bill No. 12 (2009–2010 Reg. Sess.) (Assembly Bill 12) in 2010. Assembly Bill 12 “permits a juvenile court to continue to exercise dependency jurisdiction and provide foster care benefits to eligible nonminors until the age of 21.” (*In re A.A.*, *supra*, 243 Cal.App.4th at p. 773.) “Thus, dependent children who would normally ‘ “age out” of the system’ could qualify to receive assistance until they reach 19, 20, or potentially even 21 years of age.” (*In re K.L.* (2012) 210 Cal.App.4th 632, 637.)

To be potentially eligible for Assembly Bill 12 benefits, however, a young adult in Laura’s situation must be a ward subject to an order for foster care placement on the day she turned 18 years old. (§§ 450, subd. (a), 11400, subd. (v).)

B.

At the age of 16, Laura committed two misdemeanor counts of vandalism and two misdemeanor counts of battery. All four counts involved disagreements with Laura’s father, in which she threw an object at him, punched and kicked him, and damaged the family home. In January 2016, she was found to come within the jurisdiction of the juvenile court and initially placed on home supervision pending disposition.

Before the disposition hearing took place, the Contra Costa County Probation Department (the Department) alleged Laura violated the home supervision terms by removing her ankle monitor, leaving home without permission, and smoking marijuana. Agreeing Laura needed a higher level of supervision, the court ordered Laura removed from home, placed in the Department’s care, and detained in juvenile hall pending disposition. Laura was later deemed a ward of the juvenile court, placed on probation,

and released to her parents' custody on various terms and conditions, including that she obey her parents' rules.

As explained in more detail below, over the next year and a half, the court tried multiple options to find a suitable placement for Laura. Laura repeatedly violated the terms of her probation by failing to comply with its conditions, committing new crimes, and failing to stay in contact with her probation officer.

In July 2016, after Laura left home without permission and failed to return, the court ordered her removed from her parents' custody (§ 726, subd. (a)(3)) and into an out-of-home placement at the Children's Home of Stockton.

After about a month at the Children's Home, Laura left without permission and did not return. When arrested on a bench warrant, Laura was in possession of cocaine. The court set aside the previous placement order and committed Laura to a more structured county institution, Girls in Motion.

Laura remained at Girls in Motion for about five months and participated in substance abuse treatment and anger management therapy. Laura's parents were concerned Laura would return to drug use if she returned home, however, and requested group home placement so Laura could eventually utilize Assembly Bill 12 services. The Department acknowledged their concerns but stated Laura was "not suitable for out of home placement" because she had obtained her high school diploma and would turn 18 years old in approximately five months. The Department recommended Laura have a chance to use her newfound skills in the community: "If [Laura] were to fail at utilizing the skills she was taught, then [the Department] and the court . . . could proceed with other options."

The court ordered Laura released from Girls in Motion and reinstated the July 2016 placement order. Laura was continued as a ward of the juvenile court and temporarily returned to home supervision on the condition she complete the 90-day conditional release phase of the Girls in Motion program. She was required to attend two Alcoholics or Narcotics Anonymous meetings a week, submit to weekly random

drug testing, and participate in family therapy with her parents. The Department continued to look for a suitable placement.

Laura disregarded her parents' rules by sneaking a male into their home. The court then released her on home supervision with a family friend. At a subsequent placement review hearing, Laura's counsel urged the court to issue a foster care placement order (either group home, transitional housing, or the home of a licensed foster parent) to qualify Laura for Assembly Bill 12 services when she turned 18 in approximately four months. The court ordered the Department to begin the process of qualifying the family friend as a foster parent.

Laura continued to have problems. She repeatedly left home without permission, and she allowed her ankle monitor battery to die on at least two occasions. Laura stayed in touch with her probation officer but did not attend all the required alcohol or drug program meetings. She also failed to begin an internship she had secured. Because Laura was not taking the terms of her probation and home supervision seriously, the Department recommended she be detained in juvenile hall. The court found Laura had not complied with the rules governing her home supervision and warned Laura she was receiving "[one] last chance."

Soon after, the family friend indicated she could no longer provide housing for Laura. The court then released Laura to her parents on home supervision.

In less than a month, Laura's parents indicated they were "no longer willing/able to provide housing for [her]." The court ordered Laura removed from her parents' custody. Laura was detained in juvenile hall while probation sought a more appropriate placement. Later that month, the court ordered Laura's wardship continued, released her from juvenile hall, and temporarily placed her under the supervision of her adult sister in the family friend's home.

When Laura failed to appear for an August 2017 hearing, despite having been ordered to do so, the court issued a bench warrant for her arrest.

Within a month of turning 18, Laura was alleged to have violated the terms of her probation by failing to keep an appointment with her probation officer, being arrested for

trespass, and failing to report all police contact within 24 hours to her probation officer. At the request of her counsel, a hearing was calendared to address the warrant, but Laura again failed to appear.

Laura failed to appear at the next hearing as well. The Department recommended the July 2016 placement order be set aside because of Laura's continued disobedience of court orders and probation terms. Laura's counsel indicated she had been in contact and opposed the Department's recommendation. Counsel continued, "Laura is going to be turning [18 in approximately two weeks] and, as the Court knows, if she doesn't have a placement order, she's not going to be eligible for [Assembly Bill] 12." The court agreed Assembly Bill 12 benefits "would be helpful to [Laura]," but observed she was ignoring court orders and "is not somebody who I think, at this point, really deserves [Assembly Bill] 12 services." The People agreed with the Department, stating "the placement order is not a true placement order at this point, given her AWOL status." The Department suggested there was still time to reinstate the placement order before her birthday if Laura returned and agreed to new probation terms and conditions. The court continued the matter to September 1, 2017, telling defense counsel, "if you can get her in here . . . , then I will not set aside the placement order. But if you are not able to get her to appear in court, then I will set it aside."

Laura failed to appear at the September 1 hearing. Her counsel thanked the court for its patience but argued the placement order should not be set aside, stating Laura had no place to live and Laura's parents "refuse to take care of Laura and have effectively abandoned" her. Laura's mother, who was present at the hearing, disagreed and explained that, despite many precautions to keep Laura safe, she "leaves at 3:00 in the morning when we are sound asleep." She continued, "It's not that we don't love our daughter and want what's best for our daughter and want to financially help our daughter[, but] [i]t's that she's choosing not to remain safe in our home." After finding Laura's parents had not abandoned her, the court set aside the placement order. The bench warrant remained outstanding.

Five months later, Laura finally returned to juvenile court in custody, after she had turned 18. At that time, she admitted most of the most recent probation violation allegations. The court sustained the probation violation petition, recalled the warrant, and found home supervision inappropriate. Laura was placed under the temporary care of the Department and detained pending disposition.

At the next hearing, the court explained its belief that “the longer we try to impose services, the more [Laura is] going to appear in court in custody.” Defense counsel agreed the juvenile court “has exhausted its options for Laura.” The court continued Laura as a ward and ordered her to serve 60 days in juvenile hall, after which her probation was ordered to “terminate unsuccessfully” and Laura was to be released “to [her]self.”

DISCUSSION

Laura maintains the juvenile court abused its discretion by setting aside the July 2016 placement order. We do not agree.

A.

As a threshold issue, the People ask us to dismiss Laura’s appeal as moot because, after she filed her appeal, her probation was terminated and she was released to her own custody. “ ‘When no effective relief can be granted, an appeal is moot and will be dismissed.’ ” (*In re A.B.* (2014) 225 Cal.App.4th 1358, 1364.)

In re David B. (2017) 12 Cal.App.5th 633, involved an appeal by a young man for whom, at the age of 17 years 11 months, a dependency petition was filed, alleging parental abandonment. (*Id.* at pp. 638–639.) The juvenile court dismissed the petition, finding insufficient evidence to support jurisdiction. (*Id.* at p. 643.) David’s appeal was moot because he had turned 18 in the interim and “he could not be declared a dependent on remand” even if the reviewing court concluded the juvenile court erred in failing to take dependency jurisdiction. (*Id.* at pp. 638, 644, 650.)

Here, however, the juvenile court retained jurisdiction over Laura, and the People fail to persuade us we have no power to provide effective relief. “[W]hen a juvenile court *has* assumed jurisdiction over a person, the person’s 18th birthday does not divest

the court of jurisdiction.” (*In re David B.*, *supra*, 12 Cal.App.5th at p. 651.) If we reverse the September 2017 order and the July 2016 placement order is reinstated, Laura would, at least hypothetically, be in a position to petition for reentry to the juvenile court’s transitional jurisdiction (§ 450), pursuant to section 303, subdivisions (b) through (c) and section 388, subdivision (e), at any point before her 21st birthday. (See *In re Shannon M.* (2013) 221 Cal.App.4th 282, 295; Cal. Rules of Court, rule 5.906.) Because resolution of Laura’s appeal could affect her future rights, we will not dismiss the appeal. (See *In re Michael D.* (1996) 51 Cal.App.4th 1074, 1081, fn. 2.)

B.

Laura contends the court abused its discretion in setting aside the placement order because that foreclosed her from meeting Assembly Bill 12’s eligibility requirements and, therefore, was not in her best interest. (See § 11400, subd. (v)(1); Cal. Rules of Court, rule 5.906(d)(1)(A).)² She contends the September 2017 order was a punitive response to her failure to attend court hearings that was not grounded in a legitimate purpose under juvenile court law.

Our role is limited. We review a juvenile court’s order modifying or terminating a prior disposition order for abuse of discretion. (§§ 775, 778; *In re Corey* (1964) 230 Cal.App.2d 813, 831–832.)³ “ ‘ ‘The appropriate test for abuse of discretion is whether

² A “nonminor dependent” is defined as “a foster child . . . who is a current dependent child *or ward of the juvenile court*, or who is *a nonminor under the transition jurisdiction* of the juvenile court, as described in Section 450, and who satisfies all of the following criteria: [¶] (1) He or she has attained 18 years of age *while under an order of foster care placement* by the juvenile court, and is not more than 19 years of age on or after January 1, 2012. . . . [¶] (2) He or she is in foster care under the placement and care responsibility of the county welfare department [or] county probation department [¶] (3) He or she has a transitional independent living case plan . . . as described in Section 11403.” (§ 11400, subd. (v), italics added.)

³ Section 775 provides: “Any order made by the court in the case of any person subject to its jurisdiction may at any time be changed, modified, or set aside, as the judge deems meet and proper, subject to such procedural requirements as are imposed by this article.” Any person having an interest in a child who is a ward of the juvenile court “may, upon grounds of change of circumstance or new evidence, petition the court . . . for

the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” ’ ’ (In re Stephanie M. (1994) 7 Cal.4th 295, 318–319.)

Laura argues the trial court’s decision is harsh. Assembly Bill 12 offers resources that could benefit Laura before she turns 21, at least potentially. We note that, to be eligible, Laura would have to meet requirements such as enrolling in college or securing employment. (§ 11403, subd. (b).) Although the record indicates she has serious challenges to overcome, including substance abuse, impulsiveness, and risky behavior, the court also observed that she is “clearly very bright.” Troubled young adults can turn their lives around, which is part of the reason for Assembly Bill 12. Moreover, we agree with Laura that “juvenile proceedings are primarily ‘rehabilitative’ [citation], and punishment in the form of ‘retribution’ is disallowed [citation].” (In re Eddie M. (2003) 31 Cal.4th 480, 507; accord, § 202.)

But we do not read the record, as Laura does, to suggest the juvenile court set aside the placement order as punishment or retribution for her failure to appear. For a year and a half, the court displayed flexibility and patience as it struggled—along with Laura’s parents and numerous other well-intentioned people—to find a suitable placement for Laura. It was manifestly unsuccessful. The court gave Laura one last chance to convince the court to keep the placement order in place, notwithstanding its ineffectiveness. It did not have to do so. On this record, the court could have set aside the placement order earlier. Laura’s history of probation violations, repeated failure to comply with court orders, and history of unsuccessful placements showed her rehabilitation needs were not being met by the July 2016 placement order. Thus, the court was acting in her best interests by setting it aside. In fact, Laura only made progress when committed to a county institution, Girls in Motion, at which she would not

a hearing to change, modify, or set aside any order of court previously made” (§ 778, subd. (a).)

be considered to be in “foster care” for Assembly Bill 12 purposes. (§ 11402; 42 U.S.C. § 672(c)(2); *In re A.A.*, *supra*, 243 Cal.App.4th at p. 774.)

The trial court had limited options. Laura was a ward whose rehabilitative needs were not being met by the July 2016 placement order, under which she could have become eligible for Assembly Bill 12 benefits. (See § 11400, subd. (v).) Laura could have also become eligible if she had been subject to transition jurisdiction, which is conditioned on a minor or nonminor having met her rehabilitative goals and juvenile wardship jurisdiction no longer being necessary. (§§ 450, subd. (a)(3), 11400, subd. (v).) Although there is no dispute that Laura did not yet qualify, in the months leading up to her 18th birthday, her counsel, the Department, and the juvenile court all supported efforts to move Laura towards such a transition. It was not unreasonable for the court to insist Laura attend court hearings to demonstrate her rehabilitative progress and serious interest. As her counsel later admitted, when Laura finally returned to court almost six months after the challenged order, “the [juvenile court] has exhausted its options for Laura.” The court did not abuse its discretion in setting aside the placement order.

DISPOSITION

The September 1, 2017 order is affirmed.

BURNS, J.

WE CONCUR:

SIMONS, Acting P. J.

NEEDHAM, J.

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